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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,267

06/27/2008

Hugh Thomson

GHL-100US

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,267	<b>Applicant(s)</b> THOMSON, HUGH	
	<b>Examiner</b> JOSEPH EDELL	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites "releasable clip" in line 5. It is unclear whether this recitation refers to the previously recited releasable clip of claim 1 or refers to a new structural limitation.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-8, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,449,770 B1 to Taylor et al. in view of DE Publication No. 33 01 385 A1 to Bimboese-Oswald.

Taylor et al. disclose a safety device that is basically the same as that recited in claims 1, 4-8, 13, and 14 except that the releasable strap at the waist portion lacks a

Art Unit: 3636

diagonal disposition, as recited in the claims. See Figures 1 and 2 of Taylor et al. for the teaching that the safety device has a body 10 with front and back portions 13,14, a plurality of releasable straps 20,24 on the front portion and capable of receiving a vehicle seat belt, and a neck hole 15 wherein at least one strap 20 is mounted to a waist portion of the front portion and at least one strap 24 is mounted to a shoulder portion of the front portion, each strap includes a releasable clip (hook and eye fasteners) coupled to one end thereof and configured to mate with another clip to retain the seat belt against the safety device, each strap is fixedly connected to the body, the body is made from strengthened synthetic fabric, the body is sleeveless, the front and back portions are formed in a single piece, the straps are positioned on the device accommodate a diagonally extending strap of the seat belt, and at least one strap is positioned near a portion of the body to guide the seat belt away from the neck hole.

Bimboese-Oswald shows a safety device similar to Taylor et al. wherein the device has a body 1 and an attachment device 9,10 at the waist portion of the body's front portion that is disposed diagonally with respect to a bottom edge of the device. Therefore, it would have been obvious to one of ordinary skill in the art to modified the safety device of Taylor et al. such that the releasable strap provided at the waist portion is disposed diagonally with respect to a bottom edge of the device, such as the safety device disclosed by Bimboese-Oswald. One would have been motivated to make such a modification in view of the suggestion in Bimboese-Oswald that the diagonally-oriented waist straps provide anatomically positioned seatbelt holders along the user's waist. Moreover, it is simply a matter of common sense that the diagonal waist straps,

Art Unit: 3636

in a safety device quite similar to that of Taylor et al., could be combined with safety device of Taylor et al. to address the known problem of well-positioned seatbelts for a user riding in a vehicle. It is clear that one of ordinary skill in the art would have perceived a reasonable expectation of success as a result of combining the diagonal waist straps of Bimboese-Oswald with the safety device of Taylor et al.

Claims 3, 10, and 12, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. in view of Bimboese-Oswald as applied to claims 1, 4-8, 13, and 14 above, and further in view of U.S. Patent No. 4,571,000 to Holder.

Taylor et al., as modified, disclose a safety device that is basically the same as that recited in claims 3, 10, and 12, as best understood, except that the body lacks eyelets and removably attached sides, as recited in the claims. See Figures 1 and 2 of Taylor et al. for the teaching that each strap includes removable fabric straps, the body includes a pair of arm holes 19, and the releasable clip has a hook and eye fastener positioned below each arm hole.

Holder shows a safety device similar to Taylor et al. wherein the device has a body 10 with front and rear portions 16,17, eyelets 32 on the body, fabric straps 28 connected to the body through the eyelets, a pair of arm holes, and a side below each arm hole such that the front and rear portions are removably attached down the sides of the body by a releasable clip 36,38. Therefore, it would have been obvious to one of ordinary skill in the art to further modify the device of Taylor et al. such that the body includes eyelets and a side below each arm hole for removably attaching the front and

Art Unit: 3636

back portions down the sides by a releasable clip wherein the fabric strap of each strap is removeably connected to the body through the eyelets, such as the device disclosed by Holder. One would have been motivated to make such a modification in view of the suggestion in Holder that that the eyelets and sides configuration of the body allows for the device to be placed over the head and arms of the user for releasably connecting the sides after the body is in place without fear of the body riding up over time.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. in view of Bimboese-Oswald as applied to claims 1, 4-8, 13, and 14 above, and further in view of U.S. Patent No. 3,742,945 to Reinhardt.

Taylor et al., as modified, disclose a safety device that is basically the same as that recited in claim 9 except that the body lacks fixed connection of the front and back portion at the shoulder section only, as recited in the claims. Reinhardt shows a safety device similar to Taylor et al. wherein the device has a body 30 with front and rear portions only fixedly connected at a shoulder section. Therefore, it would have been obvious to one of ordinary skill in the art to further modify the device of Taylor et al. such that the body's front and back portions are fixedly connected at a shoulder section only, such as the device disclosed by Reinhardt. One would have been motivated to make such a modification in view of the suggestion in Reinhardt that the device's fixed connection of the front and back portions of the body at only the shoulder section allows for adjustment of the device around the waist of the user.

### ***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. Applicant's claim amendments, and not Applicant's arguments, resulted in the new grounds of rejection.

With respect to the teachings of Taylor et al., Applicant argues that Taylor et al. fail to disclose a releasable strap on its shoulder. Examiner disagrees. Please note that claim 1 recites "at least one releasable strap is mounted to a shoulder portion of the front portion of the device." Examiner reasonably interprets a "shoulder portion" of the front portion of a safety device body as being the area at or near the shoulder of the user wearing the device. Taylor et al. disclose a pair of shoulder loop panels 24, which are on the front portion 13 of the safety device body 10 at or near the shoulder of the user wearing the device. Therefore, Taylor et al. disclose a releasable strap mounted to a shoulder portion of the front portion of the device, as recited in claim 1.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3636

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
August 24, 2010